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THE

CONSTITUTIONAL CONVENTION

OF

TENNESSEE OF 1796.

EDWARD T. SANFORD.

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On July 31st, 1797, Francis Baily, a young English traveler, then unknown to fame, but afterwards President of the Royal Astronomical Society, while stopping at the town of Nashville, before starting on his fifteen days' overland journey through the Indian territory to Knoxville, after noting in his journal the recent formation of the State of Tennessee and the fact that the Governor had, "in pursuance of the law, called a convention who lately met at Knoxville, (and) formed a Constitution," added, by way of comment, this foot note: "All this sounds terrible in England, but is is a matter of course in America," after which digression he continued: "This Constitution breathes the true spirit of republicanism, and is formed much after the same manner as others, with all the improvements which time and experience have pointed out in the science of legislation." (1)

The Constitutional Convention thus referred to was that of 1796. I shall use Mr. Baily's commentaries as the text for the two salient features of that convention upon which it is my purpose to lay especial emphasis: First, the fact that while the holding of such a convention would indeed have been an extraordinary thing in England, with its unwritten constitution, it was, in America, "a matter of course," and only one link in an orderly and legal chain of events; and second, that the Constitution thus formed was not in any sense a sudden and spontaneous creation, but was the natural outcome of those experiments in constitution-making with which its framers were acquainted, with such improvements as their own experience and the spirit of the times suggested.

Taking up then the first of these points, it will be necessary,

(1) Francis Baily's Journal of a Tour in Unsettled Parts of America, p. 413.

in order to understand the legal ground upon which this Convention rested, to briefly review the principal events and legislative enactments of which it was the logical outcome.

It was natural that North Carolina, claiming under the charters of 1663 and 1665, by which Charles II., by the Grace of God, King of England, France, Scotland and Ireland, and Defender of the Faith, had granted to his right trusty and right well beloved cousin and counsellor, Edward, Earl of Clarendon and High Chancellor of England, and the six other Lord Proprietors of Carolina, a province extending westward "as far as the South Seas," (2) should have been one of those States which, towards the close of the Revolutionary War, under the leadership of Virginia, stoutly resisted Maryland, Delaware and the other smaller States, whose territorial limits being clearly defined and scarce extending out of hearing of the surf upon the Atlantic shores, insisted, with the strenuous energy born of the instinct of self preservation, that the vast empire west of the Alleghanies, which was unsettled at the commencement of the Revolution, and claimed by both the British Crown and the native Indians, when "wrested from the common enemy" by the blood and treasure of the thirteen States, should be considered as a common property, held for the common good and the payment of the common debt. (3)

And hence, the Articles of Confederation having failed to settle the dispute, and Maryland stoutly withholding her assent thereto, Congress, by resolution of Sept. 6, 1780, urged upon the States claiming western lands a liberal surrender of a portion of their claims in order that "the stability of the general confederacy" might be preserved, and the only obstacle removed to a final ratification of the Articles of Confederation; (4) this recommendation being followed by another resolution on October 10 of the same year, by which Congress pledged itself that such unappropriated land as might be relinquished to the United States, pursuant to the former resolution, should be "disposed of for the common benefit of the

(2) Ben. Perley Poore's Constitutions and Charters, Vol. 2, pp. 1382 and 1390.

(3) The Public Domain, p. 60 *et seq.*

(4) The Public Domain, p. 64.

United States, and be settled and formed into distinct republican states" containing a suitable extent of territory, as near as might be, from one hundred to one hundred and fifty miles square, which should "become members of the Federal Union, and have the same rights to sovereignty, freedom and independence as the other States." (5)

And, accordingly, when in December, 1789, the General Assembly of North Carolina, following the patriotic example of New York, Virginia, Connecticut and South Carolina, and reciting the repeated recommendations of Congress for a cession of western lands, for the second time authorized the cession to the United States of all her lands lying west of the Great Smoky Mountains, and constituting the present State of Tennessee, (6) it followed, by virtue of the last mentioned resolution, that the inhabitants of the ceded territory became entitled to the benefit of the Nation's pledge that they should be formed into a State or States as members of the Federal Union.

But, as if to make this yet more specific, North Carolina provided as an express condition of the cession, that the ceded territory should be "laid out and formed into a State or States containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits and advantages set forth in the ordinance of the late Congress for the government of the western territory of the United States," and that the inhabitants of the ceded territory should never be barred or deprived "of any privileges which the people in the territory west of the Ohio enjoy." (7)

The ordinance thus expressly made the basis of our rights and privileges was the famous ordinance passed by the Confederation Congress on July 17, 1787, commonly known as the Northwest ordinance, by the fifth article of which it was specifically provided that whenever any of the three new States therein contemplated should have "sixty thousand free inhabitants" it should be "admitted by its delegates into the

(5) The Public Domain, p. 64.

(6) 2 Poore's Charters and Constitutions, p. 1664.

(7) 2 Poore's Charters and Constitutions, p. 1666.

Congress of the United States, on an equal footing with the original States in all respects whatever," and should be "at liberty to form a permanent constitution and State government," provided only it should be republican and in conformity with the principles of the ordinance, and that so far as consistent with the general interests of the confederacy, such admissions should be allowed earlier and with a less number of free inhabitants. (8)

And the two North Carolina Senators, one of whom was the same Benjamin Hawkins, who had recently defeated William Blount as a candidate, having on February 25, 1790, executed the deed of cession, which was accepted by the United States the following month, (9) Congress, a few weeks later, by an act approved May 26, 1790, provided "that the territory of the United States south of the Ohio River, for the purpose of temporary government," should "be one district," and that its inhabitants should enjoy "all the privileges, benefits and advantages set forth" in the Northwest ordinance. (10)

And thus, by the resolution of October 10, 1780, and by express reference to the provisions of the Northwest ordinance, was the right of ultimate Statehood doubly guaranteed to the inhabitants of the Territory South of the River Ohio, or Southwestern Territory, as it was commonly called.

This territory, it should here be noted, did not include merely the present State of Tennessee, as is commonly supposed and generally stated, at least impliedly, by our historians, including even Roosevelt, the last and best, but also embraced a strip some twelve miles in width and about four hundred miles in length, containing over forty-eight hundred square miles, lying immediately south of the present State of Tennessee, extending from the western boundary of South Carolina to the Mississippi River, and now forming the northern portion of Georgia, Alabama, and Mississippi.

This strip of territory, which includes the battlefield of Chickamauga and such towns as Stevenson, Ala., and Cor-

(8) 1 Poore's Charters and Constitutions, p. 432.

(9) 2 Poore's Charters and Constitutions, p. 1664.

(10) 2 Poore's Charters and Constitutions, p. 1667.

inth, Miss., had been ceded to the United States by South Carolina in 1787, (11) after a series of confused legislation which has been admirably described by Prof. W. R. Garrett in his valuable paper on the history of the South Carolina cession; (12) it was, therefore, at the date of the passage of the Southwestern ordinance a component part of the territory owned by the United States south of the River Ohio, and was hence included in the terms of that ordinance. However, as it was inhabited at that time principally by wolves, rattlesnakes and Indians, it was apparently unnoticed, and no actual jurisdiction was ever asserted over it by the territorial government, the only counties which were created in the territory during its whole existence being subdivisions of the old North Carolina counties; and in 1796, as we shall see, at the time our State Constitution was formed, still unnoticed, it passed out of our history forever.

Passing by the intermediate phases of our territorial government, not relevant to the present subject, we are brought to September 29, 1794, upon which date there appears the first recorded evidence of the sentiment that eventually led to the formation of the new State, in a joint resolution of the two houses of the Territorial Assembly, requesting Gov. William Blount to direct that in taking the census in the following June, the sense of the people should be inquired into as to their wish for admision into the Union as a State. (13)

On the following day Gov. Blount prorogued the Assembly until October, 1795, (14) but in a letter, apparently written in December, 1794, to Gen. Sevier, he expressed his opinion that the territory should become a State as early as possible, and stated that he had already written to friends in Congress requesting them to have an act passed for that purpose, (15) and, shortly afterwards, with that political tact which, as Phelan says, "was but little below statesmanship," and probably in

(11) The Public Domain, p. 75.

(12) Published among the Tennessee Historical Society Papers.

(13) Journal of Legislative Council (reprint of 1852), p. 33; Journal of House of Representatives (reprint), p. 40.

(14) Journal of House of Representatives (reprint), p. 41.

(15) Ramsey's Annals of Tennessee, p. 639.

obedience to what was undoubtedly a rapidly growing popular desire for admission as a State, he issued a proclamation calling a special session of the Assembly at Knoxville on June 29, 1795, and on its meeting stated in his message that his principal object in calling them together was to afford an opportunity to inquire whether it was, as he had "been taught to believe, the wish of the majority of the people that this territory should become a State" when there should be found to be sixty thousand free inhabitants, or at such earlier period as Congress should enact; and if so, to take prompt measures to effect the desired change. (16)

In reply to this message, John Sevier, as Chairman of a special joint committee of the Assembly, reported an address to his Excellency, expressing their approbation of the object for which they had been called together and their conviction that the great body of their constituents were "sensible of the many defects" of their present mode of Government, and of the great and permanent advantages to be derived from a change." (17)

A few days later an act was passed providing for the enumeration of the inhabitants of the territory by the sheriffs of the various counties and for the return of same on schedules showing separately the number of free white males over and under sixteen years of age, of free white females, and of all other free persons and of slaves, and further providing that if it should appear that there were "sixty thousand inhabitants, counting the whole of free persons, including those bound to service for a term of years, and excluding Indians not taxed, and adding three-fifths of all other persons," the Governor should recommend to the people the election of five persons from each county to represent them in a convention to meet at Knoxville "for the purpose of forming a Constitution, or form of Government, for the permanent government of the people who are or shall become residents upon the lands by the State of North Carolina ceded to the United States." (18)

(16) Journal of Legislative Council (reprint), p. 4.

(17) Journal of Legislative Council (reprint), p. 9.

(18) Acts of 2nd Session of 1st Territorial Assembly, Ch. 1, p. 3, July 11, 1795.

The act furthermore provided that the sheriffs should ask each free male person of eighteen years and upwards the following question: "Is it your wish, if upon taking the enumeration, there should prove to be less than sixty thousand inhabitants, that the Territory shall be admitted as a State into the Federal Union with such less number, or not?" and should make a separate return of this vote to the Governor, who, if the number should be less than sixty thousand and the question be determined in the affirmative, was requested to call a special session of the General Assembly as early as might be. (19)

It was also provided that the members of the convention should receive the same "wages" per diem and the same mileage as members of the General Assembly, that is to say, $2.50 per diem for attendance, and $2.50 for every thirty miles of travel, but no provision was made for the payment of clerks or other expenses of the convention. (20)

There are three noteworthy points in this act: First, the fact that while the Northwest ordinance had provided for the admission of States, as a matter of right, when they should contain sixty thousand "free inhabitants," this act provided for a convention if there should be sixty thousand inhabitants, counting all free persons, and "three-fifths of other persons," this last phrase, with its euphemistic description of slaves, being evidently borrowed from the Constitution of the United States; second, that while the act purported to provide for the enumeration of the inhabitants of the entire Territory, it, in fact, only made provision for an enumeration of the people residing in the eleven counties that had been formed out of the North Carolina cession, there probably being no one else in the Territory to enumerate, and specifically recited that the new State was to be formed out of the land ceded by North Carolina; and, third, a point generally overlooked by our historians, that the census takers were not directed to ascertain the wishes of the people upon the broad question of admission into the Union, but only whether they wished for admission

(19) *Ibid*, sec. 8.

(20) *Ibid*, sec. 9; Journal of Legislative Council, p. 13.

if there should be found to be less than sixty thousand inhabitants.

On July 10, Thomas Hardiman, a representative from Davidson County, entered upon the journal his dissent from this act on the ground: First, that it was leading the people to a change of government which they had not requested, and burdening them with additional taxes without a certainty of any advantages; second, that there were only two sources of revenue for paying the expenses of the Government, one by travelers, the other by the United States, both of which would be inadequate; and, third, that in taking the census travelers might be numbered in each of the counties through which they traveled, and the people thereby imposed upon. (21)

The census, however, was duly taken, and the Territory found to contain 65,776 free white males and females, 973 "other free persons," and 10,613 slaves, making a total of 66,650 free inhabitants, and an aggregate population (including slaves) of 77,263. The conditional vote in favor of admission was 6,504, and the negative vote 2,562, being a majority ratio of about 13 to 5. In all counties east of the Cumberland Mountains the vote in favor of admission largely preponderated; in the Middle Tennessee counties the negative. (22)

Thereupon Gov. Blount issued a proclamation recommending the people of each county to elect, all free males twenty-one years and upwards voting, five persons, who should represent them in a Constitutional Convention, to meet at Knoxville on the 11th of the succeeding January. (23)

The elections having been duly held, the convention, on January 11, 1796, assembled in Knoxville, the new town beauti-

(21) House Journal, p. 17.

(22) Certified Schedule of Gov. Blount, dated November 28, 1795; Ramsey's Annals, p. 648. Of the three Middle Tennessee counties, the conditional vote of Davidson County against admission was 517 to 96, and of Tennessee County, 231 to 58, that of Sumner County not being given. It is stated by Mr. Goodpasture, in the article on "Andrew Jackson, Tennessee, and the Union," cited in note 34, *infra*, that the adverse vote in the Cumberland River counties "grew out of the question concerning the free navigation of the Mississippi River." 1 Am. His. Mag., p. 212.

(23) Proclamation, dated November 28, 1795; Ramsey's Annals, p. 649.

fully situated on the banks of the Holston, which Gov. Blount had established as the seat of the Territorial Government, then containing some three hundred houses, and enjoying the advantages of a printing office and newspapers, the United States post, and the sessions of the various courts. (24) Here writes Dr. Ramsey in the flowing rhetoric with which he speaks of the associations clustering around the early history of Knoxville, the "chieftains of the Cherokee nations met Gov. Blount in Council, smoked the pipe of peace and formed the treaty of Holston; here the pious White pitched his tent in the wilderness, lived his life in patriarchal simplicity and unostentatious usefulness. . . . Here the infant Government of the Territory was cradled, and nurtured in its youth by the paternal care of Blount, of Anderson and Campbell. Here, too, the sages and patriots of 1794 met and made laws." (25).

The sessions of the Convention were held in the office of David Henley, Esq., Agent of the Department of War, a small, wooden building, whose last vestiges have long since been destroyed, but which then stood in the outer part of the town and was still surrounded by the ancient forest. (26) In this modest edifice, plain wooden seats and a stand covered with oil cloth had been arranged, and candles provided to light their midnight sessions. (27).

However, the convention, though poor in material trappings, was rich in the character of its members. It can safely be asserted that at no other time in the history of our Commonwealth has there ever been assembled a body of men representing more of the integrity and intellect of the community than the fifty-five members of that convention.

(24) Gilbert Imlay's Topographical Description of the Western Territory of North America (3d English edition, 1797), pp. 516, 525.

(25) Ramsey's Annals, p. 635.

(26) Journal of the Convention (reprint of 1852), p. 31; Ramsey's Annals, p. 656. Our fellow member, Col. W. A. Henderson, has informed me, since this paper was read, that he was told by Dr. Ramsey that the building was a one-roomed building covered with clapboards and painted red, the first of that character in the community, and that it stood in a vacant lot near the edge of a pond, about where the Northern Methodist Church now stands, on the north side of Church street.

(27) Journal of Convention (reprint), p. 31.

Conspicuous among the representatives from Davidson County, was a young attorney of whom men were already beginning to prophecy great things, a man of inflexible honesty, far reaching sagacity and invincible determination, who afterwards achieved reputation as the first member of Congress from Tennessee, and as a Judge of its Superior Court, but attained greater fame as a General and the hero of the battle of New Orleans, and crowned his career as President of the United States and the people's steadfast friend, that Andrew Jackson whom history loves to remember by his title of "Old Hickory."

With him there came from Davidson County, James Robertson, the wise and brave Scotch-Irishman, who had been a leader among his fellows on the Watauga, and was pre-eminently first among the Cumberland settlers, perhaps, all in all, the strongest and noblest figure in the pioneer history of Tennessee, whom John Haywood, our learned historian, ornately, but truly, describes as having "not a noble lineage to boast of, nor the escutcheoned armorials of a splendid ancestry," but "a sound mind, a healthy constitution, a robust frame, a love of virtue, an intrepid soul, and an emulous desire for honest fame," (28) and of whom it is written in the Blount papers that: "To his wife he was indebted for the knowledge of the alphabet, and for instruction how to read and write. To his Creator, he was indebted for rich mental endowments—to himself for mental improvement. To his God, was he indebted for that firmness and indomitable courage, which the circumstances that surrounded him called so constantly into exercise." (29).

Davidson County also sent another honored son in the person of John McNairy, who had, under North Carolina, been Judge of the Superior Court of the counties of Davidson and Sumner, had been subsequently appointed a Territorial Judge by President Washington, and was later elected a Judge of the Superior Court of the State under the new Constitution, though he declined the last office. (30) With them also came that

(28) John Haywood's History of Tennessee (reprint of 1891), p. 52.

(29) Quoted in Ramsey's Annals, p. 665.

(30) Ramsey's Annals, p. 662; The American Historical Magazine (Nashville), vol. 1, pp. 281, 286.

Thomas Hardeman to whose protest against the Census Act I have already referred.

Hawkins County sent as its most distinguished representative, Joseph McMinn, an old Revolutionary soldier, originally a Pennsylvania farmer, who was afterwards Speaker of the State Senate and Governor of Tennessee for three successive terms; and William Cocke, a former leader and Brigadier General in the Franklin Government and its delegate to Congress, according to tradition the foremost orator of our pioneer times, who afterwards, with William Blount, first represented Tennessee in the Senate of the United States, and in his varied career served in the Legislature of the four States of Virginia, North Carolina, Tennessee and Mississippi. (31)

Jefferson County sent, among others, Joseph Anderson, who had been a Major in the Continental Army, and later one of the Territorial Judges, and who afterwards succeeded Blount in the Senate of the United States, (32) and Archibald Roane, who was afterwards elected a Judge of the Superior Court and later Governor of the State.

Among the representatives of Knox County was William Blount, the courtly Governor of the Territory and Superintendent of Indian Affairs, who had already enjoyed the distinguished honor of serving as a member from North Carolina in the Convention of 1787, which framed the Constitution of the United States, and who was afterwards one of Tennessee's first

(31) Ramsey's Annals, p. 296. In the first volume of the American Historical Magazine, a work of inestimable value to the students of Tennessee history, which is now being published at Nashville under the editorship of Prof. W. R. Garrett, there will be found, at page 224, an admirable sketch of the life of William Cocke by William Goodrich, containing many interesting incidents and facts not elsewhere accessible. A genealogy of "The Cocke Family of Virginia," of which William Cocke was a member, will be found in volume 4 of The Virginia Magazine, pp. 36–217.

(32) Ramsey's Annals, p. 543. On September 3, 1791, Governor Blount, in a letter to General Robertson, said: "Judge Anderson will be at your Court. I am highly pleased with him both as a man and as a Judge; he has been a Major in the Continental Service continued to the end of the War, has supported since the character of a good citizen, is a genteel man and a learned judge and a very agreeable open Companion." 1 American Historical Magazine, p. 192.

two Senators in the Congress of the United States; a commanding figure in our pioneer history, standing in bold relief, preeminent in the elegance of his manners, the courtliness of his demeanor and his political tact; at one and the same time an aristocrat, and a man of great popularity with the people, whose fair reputation has, however, been somewhat dimmed by the unfortunate letter which he wrote to James Carey in 1787, resulting in his expulsion from the Senate, though not forfeiting the affection and esteem of his fellow-citizens. With Blount there came James White, the honored founder and first proprietor of Knoxville, (known in its infant days as "White's Fort"), whose virtues were transmitted to posterity in the person of his son, the distinguished statesman, Hugh Lawson White; also, Charles McClung, a prominent pioneer of Scotch-Irish descent, of first distinction in the early history of Knoxville; and John Adair, the former North Carolina entry taker, who had entrusted to John Sevier the public moneys in his hands for the purpose of furnishing the expedition of mountain men who marched to and defeated Ferguson at King's Mountain, and turned the tide of the Revolution. (33)

From Sullivan County, there came William C. C. Claiborne, who was afterwards elected a Judge of the Superior Court, and succeeded Andrew Jackson as a Representative in Congress, being subsequently the first Governor of the Mississippi Territory, Governor of Louisiana, and one of her United States Senators-elect at the time of his death; (34) John Rhea, also of Scotch-Irish lineage, who was for eighteen years a member of Congress, and George Rutledge, a former member of the Territorial House of Representatives, for whom the county seat of Grainger County was afterwards named. (35)

(33) Address by Judge O. P. Temple on "The Scotch-Irish in East Tennessee," published in "The Scotch-Irish in America," third Congress, p. 170; Ramsey's Annals, p. 226.

(34) See a very interesting and valuable article on "Andrew Jackson, Tennessee, and the Union," by Albert V. Goodpasture, published in vol. 1 of the "American Historical Magazine," at page 209, which is replete with biographical data as to prominent Tennesseans of early times, that, so far as I am aware, can nowhere else be obtained.

(35) Chapter 13 of the Acts of the 1st Session of the 2nd General Assembly of Tennessee.

Sumner County sent among its delegates Isaac Walton, whether of not a descendent of the genial angler does not appear, and Daniel Smith, who had been the Secretary of the Territorial Government.

Among the Representatives of Tennessee County were Thomas Johnson, written in the Journal of the Convention "Johnston," who was afterwards a member of both houses of the State Legislature, a Brigadier General, serving in the Creek War under Jackson, a candidate for Governor against Joseph McMinn in 1819, and the father of the more distinguished Cave Johnson. (36)

Among the delegates from Blount County was James Houston, a first cousin of the Rev. Samuel Houston, who drafted the rejected Franklin Constitution, and of the father of the great Sam Houston, and afterwards a member of both houses of the Tennessee Legislature. (37)

Washington County sent, among others, Landon Carter, a son of that John Carter who had been the official head of the Watauga Association, and the father of William B. Carter, who presided over the Constitutional Convention of 1834, himself formerly Secretary of the State of Franklin, and Speaker of its Senate, and a worthy representative of the most distinguished family of East Tennessee; (38) John Tipton the old-time rival of John Sevier in the days of the Franklin feud, one of the strongest men of our early history, to whose great ability and forceful character our historians, in their fondness for his more popular rival, have done but scant justice; and James Stuart, afterwards first Speaker of the Tennessee House of Representatives. (39)

The other members of the convention, while less notable than most of those whom I have mentioned, were nevertheless men

(36) See letter from T. D. Johnson, M.D., one of his descendants, which appeared in the Nashville Banner in the early part of January, 1896; also a sketch of the Johnson family in a letter addressed by Cave Johnson to his sons January 10, 1862, published in "Picturesque Clarksville," at page 289, for many interesting details of which, relating to Henry Johnson, I am indebted to the kindness of Mr. Goodpasture.

(37) "The Houston Family," by Rev. S. H. Houston, pp. 25, 126, 210.

(38) Ramsey's Annals, pp. 293, 296, 666.

(39) Ramsey's Annals, p. 658.

of high standing in the community, who had, almost without exception, filled various positions of public trust and honor. (40)

It is interesting to note, in passing, that the family names of at least seventeen members of the convention, to-wit, McNairy, Robertson, Hardeman, McMinn, Cocke, Anderson, Roane, Blount, Rhea, Tipton, Shelby, Johnson, Jackson, White, Smith, Claiborne and Carter, have been preserved to posterity in the names of the various counties of the State; and two at least, Jackson and Rutledge, in the names of county seats.

The one unexplained and remarkable fact about the membership of this convention is that dashing John Sevier, the handsomest man on the frontier, and the most popular man in the Territory, who, as we have seen, as a member of the Territorial Assembly, had been an ardent advocate of the Constitutional Convention, was not a delegate. History, so far as I am aware, fails to solve the riddle of his absence. That it was not due to waning popularity is shown by the fact that shortly afterwards he was elected as the first Governor of the State by a practically unanimous vote.

Dr. Ramsey states that: "Besides the members there was an immense gathering of the most enlightened, patriotic and influential citizens, from all parts of the Territory and some

(40) The full list of the members, as appears from the Journal, was as follows: From Blount County—David Craig, James Greenaway. Joseph Black, Samuel Glass and James Houston; from Davidson County—John McNairy, Andrew Jackson, James Robertson, Thomas Hardeman and Joel Lewis; from Greene County—Samuel Frazier, Stephen Brooks, William Rankin, John Galbreath and Elisha Baker; from Hawkins County—James Berry, Thomas Henderson, Joseph McMinn, William Cocke and Richard Mitchell; from Jefferson County—Alexander Outlaw, Joseph Anderson, George Doherty, James Roddye and Archibald Roane; from Knox County—William Blount, James White, Charles McClung, John Adair and John Crawford; from Sullivan County—George Rutledge, William C. C. Claiborne, John Shelby, Jr., John Rhea and Richard Gammon; from Sevier County—Peter Bryan, Samuel Wear, Spencer Clack, John Clack and Thomas Buckenham; from Tennessee County—Thomas Johnston, James Ford, William Fort, Robert Prince and William Prince; from Washington County—Landon Carter, John Tipton, Leeroy Taylor, James Stuart and Samuel Handley; and from Sumner County—David Shelby, Isaac Walton, Daniel Smith, William Douglass and Edward Douglass.

from other States. The occasion demanded great wisdom and moderation, as well as public spirit and public virtue—and these were there." (41)

His Excellency William Blount was unanimously chosen President of the convention; William Maclin, afterwards the first Secretary of the State of Tennessee, was unanimously elected Secretary; John Sevier, Jr., Reading and Engrossing Clerk, by a majority vote; and John Rhea chosen as doorkeeper. (42)

It was then, on motion of Mr. White, ordered that the convention commence the next day with a prayer and a sermon, to be delivered by the Rev. Mr. Carrick, (43) the scholarly and ardent young clergyman, who was the first pastor of the First Presbyterian Church of Knoxville, and the first and only President of Blount College, the modest institution of learning established at Knoxville in 1794 by the Territorial Assembly, from which to-day the University of Tennessee proudly claims descent; though singularly enough the next day's Journal does not show whether or not Mr. Carrick delivered the prayer and sermon as requested.

The first two of the fourteen rules of order adopted by the convention allowed the members to sit in their places with their heads covered when the President was in the chair, (44) affording a curious illustration of the survival of the habit of the British Parliament, originally intended, I suppose, to assert, in a somewhat aggressive and unnecessary form, the dignity of its members.

A remarkable illustration of the spirit animating the convention was the adoption of a preliminary resolution declaring that "economy is an amiable trait in any government, and that in fixing the salaries of the officers thereof the situation and resources of the country should be attended to," and pledging the members each to the other that they would not draw out

(41) Ramsey's Annals, p. 650.

(42) Journal of Convention (reprint). pp. 3, 4.

(43) Journal, p. 4.

(44) Journal, p. 4.

of the public treasury a greater sum than $1.50 per diem, and $1.00 for every thirty miles of travel. (45)

The convention then proceeded to appoint a committee of two members from each county to draft a Constitution, each county naming its own members. The following committee was chosen: David Craig and Joseph Black, from Blount County; John McNairy and Andrew Jackson, from Davidson; Samuel Frazier and William Rankin, from Greene; William Cocke and Thomas Henderson, from Hawkins; Joseph Anderson and James Roddye, from Jefferson; William Blount and Charles McClung, from Knox; William C. C. Claiborne and John Rhea, from Sullivan; David Shelby and Daniel Smith, from Sumner; Samuel Wear and John Clack, from Sevier; Thomas Johnson and William Fort, from Tennessee; and John Tipton and James Stuart, from Washington.

It appears from the Journal, that Daniel Smith was appointed chairman of this committee, (46) but it is stated by our fellow-member, J. W. Caldwell, Esq., from whose scholarly and invaluable work on the Constitutional History of Tennessee I have been obliged constantly to glean and to repeat many things that have already been better said by him, that it is a part of the unwritten, though probably authentic, history of the convention, that "the original draft of the Constitution was made by Charles McClung." (47)

It would be impossible, as well as unprofitable, to attempt here to follow chronologically the various events of the twenty-seven days during which the session of the convention lasted. Suffice it to say that the draft of the Bill of Rights was presented by the special committee on Jan. 15 and the draft of the

(45) Journal, p. 5.

(46) Journal, p. 7.

(47) "Studies in the Constitutional History of Tennessee," by Joshua W. Caldwell, p. 86. Letters written by Charles McClung, now in the possession of one of his descendants, Mr. C. M. McClung, of Knoxville, show him to have been a man of scholarly attainments and an excellent penman. Inasmuch, however, as Daniel Smith was chairman of the special committee appointed to draft the constitution, I doubt whether Mr. McClung was the author of the draft submitted to the Convention, but think it probable that he was the member who reduced it to writing.

Constitution on Jan 27, and that both were adopted in their final form on Feb. 6, the last day of the convention. The Journal of the convention is unfortunately very meagre, reporting none of the speeches, and giving the vote upon only a few of the more important questions. Dr. Ramsey, who wrote at a time when one member of the convention, Mr. Mitchell, still survived, says: "Its deliberations are said to have been marked by great moderation and unusual harmony, and to have been conducted throughout with singular courtesy, good feeling and liberality. The speeches of members were probably few and short. They had met more with the purpose of deliberating for the public good than for the exhibition of talents and eloquence." (48)

I need only add that on each of the several times when the convention resolved itself into a committee of the whole for the consideration of either the Bill of Rights or the Constitution, it gave signal proof of its wisdom by calling James Robertson to the chair to preside over its deliberations.

I shall now ask your attention to the second of the two propositions stated at the outset of this paper, namely, that the Constitution of 1796 was not in any sense a new creation, but was the result of logical and gradual growth, and, in fact, but the adaptation and modification, to suit changed conditions, of constitutional principles with which the members of the convention had long been familiar.

The men who had thus assembled in this little room had too much political sagacity and sound judgment to attempt to originate a new government independently of the teachings of the past. They knew full well that they could only create permanent institutions by selecting those principles which experience had shown to be sound and wise, and building upon these as a sure foundation, making only such necessary changes as were suggested by the conditions confronting them. We may aptly apply to them the words used by James Russell Lowell in reference to the framers of the Constitution of the United States: They "had a profound disbelief in theory. They were not se-

(48) Ramsey's Annals, pp. 650, 652.

duced by the French fallacy that a new system of government could be ordered like a new suit of clothes. They would as soon have thought of ordering a suit of flesh and skin."

It was but natural then, that, in casting about for material, they should have seized that which lay closest at hand: the Constitution which had been adopted by North Carolina in the year 1776, about five months after the Declaration of Independence, and which breathes largely the same spirit of individual liberty and of the rights of man. (49)

It was a Constitution under which they themselves had lived for the intervening fourteen years between 1776 and the creation of the Territorial Government in 1790; and so well had it been adapted to their needs that when, in 1784, in their turbulent Franklin convention, the Rev. Samuel Houston, "with the advice and assistance," as Ramsey tells us, "of some judicious friends" had submitted to their consideration a learned and elaborate Constitution, evolved largely from the inner consciousness of Mr. Houston, and containing much that was theoretically just, and yet, much that was impractical, as for example, a provision that the legislative power should be example, a provision that the legislative power should be vested in a body of persons "most noted for wisdom and virtue," who should neither be "of immoral character, or guilty of such flagrant enormities as drunkenness, gaming, profane swearing, lewdness, Sabbath breaking, and such like," nor who should deny the existence of God, a future state of rewards and punishment, the inspiration of the Bible, or the doctrine of the Trinity, nor hold a lucrative office under the State, nor be either "a minister of the Gospel, or attorney at law, or doctor of physic;" they had rejected altogether this theoretical Houston Constitution, and adopted as the basis of their revolutionary Government of Franklin the old North Carolina Constitution, with only a "few necessary alterations." (50)

(49) Adopted December 18, 1776. 2 Poore's Charters and Constitutions, p. 1408.

(50) Ramsey's Annals, pp. 323, 324, 325, et seq. An exceedingly interesting discussion of the sources of inspiration of Houston's rejected con-

From 1776 to 1790 they had lived uninterruptedly under the North Carolina Constitution, even, to all practical intent, during the stormy Franklin days; since 1790, they had been governed by the provisions of the Northwest Ordinance, and for the last two years had enjoyed the Territorial Legislature therein contemplated. Four members of the convention had been members of the first Franklin Convention; (51) three of the second; (52) and at least three of the third, which had adopted the North Carolina Constitution as the basis of that Government; (53) while eight members of the convention had been members of the House of Representatives in the Territorail Assembly. (54)

It was, hence, most natural that they should have taken as the basis of their work the North Carolina Constitution, with here and there a modification suggested by their Territorial

stitution, in which, it is to be noted, the new State was to have been named Frankland, together with much new light upon the influence exerted upon our early history by the Old Hanover Presbytery, the first south of Mason and Dixon's line, and the Abingdon Presbytery, and their Scotch-Irish ministers and Princeton graduates, with new data as to the Reverends Samuel Houston and Samuel Carrick, and their noble co-laborers, will be found in a scholarly article by Prof. J. B. Henneman on "Recent Tennessee History by Tennesseans," published in volume 4, of The Sewanee Review, at p. 439. Prof. Henneman quotes from a contemporary pamphlet, advocating Houston's proposed constitution, written by William Graham, the principal of "Liberty Hall" Academy, in Virginia, his former teacher and friend, in which Graham says of the provisions of the proposed constitution, cited in the text, excluding immoral men from all civil offices, that it is "one of the wisest and best articles in the universe, and, with other articles, . will do honor to the gentleman who framed it as long as the English language is understood, whether the people of Frankland be wise enough to adopt them or not." (P. 458.)

(51) Landon Carter, William Cocke. Alexander Outlaw and Samuel Weir (Wear). Ramsey's Annals, p. 286.

(52) William Cocke, John Tipton and James Roddye. Ramsey's Annals, p. 292.

(53) John Tipton, David Craig and James White. Unfortunately, only a partial list of the members of this Convention has been preserved. Ramsey's Annals, p. 323.

(54) William Cocke, Joseph McMinn, John Tipton, George Rutledge, George Doherty, Samuel Wear, James Ford and Thomas Hardeman. House Journal (reprint of 1852).

Government, or a phrase from Houston's Constitution, or the Constitution of the United States, and with such advancement in the line of republican government as the intervening twenty years had rendered possible.

Probably not much influence in this regard can rightly be ascribed to the Watauga Association, or the Cumberland Compact, both of which are, perhaps, commonly exalted to too great dignity as Constitutions or forms of government illustrating phases in our Constitutional development. The scanty records which we have of the Watauga Association, and especially the description of its workings contained in the petition which was sent by the Watauga people in 1776 for annexation to the North Carolina Government, and the fragment which has been preserved of the Cumberland Compact, show clearly, it seems to me, that these associations, like the later association of the people living south of the French Broad and Holston, were not Constitutions in any true sense of the word, that is to say, were not and did not purport to be organic forms of government of free and independent communities asserting their own sovereignty, but were rather voluntary associations for common defense formed by the settlers living within the normal jurisdiction of North Carolina, but beyond its actual protection, and entered into merely for the temporary purpose of preserving law and order, and defending themselves against their common enemies until such time as they might be brought within the actual jurisdiction of the mother State; in short, they were, properly speaking, very dignified committees of public safety, of unspeakable value and undying renown, but not, as they are often termed, Constitutions, or organic forms of government. (55)

(55) See Watauga Petition (Ramsey's Annals, p. 134); Cumberland Compact (A. W. Putman's History of Middle Tennessee, p. 94), and Association South of French Broad and Holston (Ramsey's Annals, p. 435). Prof. Frederick J. Turner, in an exceedingly interesting and thoughtful article on "Western State Making in the Revolutionary Era," published in the American Historical Review, vol. 1, p. 70, says: "It is not unreasonable to conclude that the suggestions of the Watauga Association may have been due to the Regulating Associations (of North Carolina). But the expedient was a natural one to Scotch-Irishmen, brought up on Presbyterian political philosophy, and it was a common mode of organ-

I shall now ask your attention, seriatim, to the more important provisions of the Constitution, indicating, wherever possible, the sources from which they were derived.

PREAMBLE.

The preamble, which recites that the Constitution is ordained and established by "the people of the Territory of the United States south of the Ohio River, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States, and the cession act of North Carolina," and "recognizing" the Northwest Ordinance," (56) is noteworthy, not only from the fact that it purports to have been entered into by all the people of the territory, whereas, only a portion of the territory was included in the new State, but also from the fact that these sturdy frontiersmen did not ask the privilege of admission as a State, but in a resolute and dignified manner, asserted their right to form themselves, as "a matter of course," into a free and independent State by virtue of the organic laws under which the Territory had been created.

GENERAL ASSEMBLY.

The main features of the provisions in reference to the General Assembly were taken from the North Carolina Constitution, with slight modifications, but singularly enough this result was only reached after very considerable uncertainty and vacillation.

Under the North Carolina Constitution, the Legislative authority was vested in two distinct branches, a Senate and House of Commons, the Senate consisting of one member annually chosen by each county, and the Commons of two mem-

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ization at the outbreak of the Revolution. . . On the whole, the association appears to have been a temporary expedient pending the organization of North Carolina's county government, and comparable to the Western 'Claim Associations' of later times. The same type of government is to be seen in the Cumberland Association." Prof. Turner gives, as another instance of similar social compacts made by pioneers beyond the protection of the laws, the Clarksville Association of 1795. (Pp. 76, 77, 78.)

(56) 2 Poore's Charters and Constitutions, p. 1667.

bers annually chosen by each county, and one member for each of six specified towns, members of the Senate being required to have resided in the county for one year, and to have possessed not less than three hundred acres of land in fee in the county, and members of the House of Commons, to have resided in the county for one year, and to have possessed for six months one hundred acres in fee or for life. (57)

Under the Northwest Ordinance, the members of the Legislative Council, or Upper House of the Territorial Assembly, were required to possess a freehold of five hundred acres, and the members of the House of Representatives two hundred acres within the district. (58)

It is a singular circumstance that, with their experience of a double house under the North Carolina Constitution, and the additional examples gives by the Constitution of the United States and of the Territorial Assembly, the convention should have apparently been in much doubt as to the advisability of two houses.

The Journal shows that on Jan. 18, before the committee to frame the Constitution had reported, the convention resolved itself into a committee of the whole to consider this question, and "after some time spent therein," arrived at the opinion "that the Legislature ought to consist of two houses;" (59) while later, on the same day, it was determined that the two houses should be "of equal numbers and equal powers." (60)

On the next day this action was reconsidered, and it was, on motion of Mr. Rhea, voted that, in lieu of two houses, the legislative power should be vested in "one House of Representatives," and that no bill or resolution should be passed except by a two-thirds vote. (61)

On the following day, Jan. 20, the convention again reconsidered its former action, and, on motion of Mr. Cocke, concurred in a report of the committee of the whole that, in lieu of a House of Representatives, the Legislature should consist of

(57) 2 Poore's Charters and Constitutions, Arts. 1 to 6, p. 1411.
(58) 1 Poore's Charters and Constitutions, p. 430.
(59) Journal, p. 8.
(60) Journal, p. 9.
(61) Journal, p. 9.

two branches, a Senate and a House of Representatives, organized under the principles of the North Carolina Constitution, the membership, after the next United States census, to be on the principle of two representatives to one Senator, provided that the number of both should not exceed forty until the population should exceed two hundred thousand, after which it should never exceed sixty. (62)

Two amendments, proposed by Mr. Anderson and Mr. Claiborne, the one striking out the word "Senate," and the other providing that the Senate should have only a "qualified negative" on legislation passed by the House, were both lost, or, to use the old-fashioned phrase of the Journal, "passed in the negative." (63)

In the draft of the Constitution, which was reported to the convention by the special committee on Jan. 27, Article I., Section 1, relating to the General Assembly, was in substantial conformity to the report of the committee of the whole which had been adopted by the convention on Jan. 20. (64)

On Feb. 3, Mr. D. Shelby moved another amendment to this section, which was postponed by agreement, and Messrs. Anderson, Shelby and McClung were appointed a committee of three to redraft this section. (65) The report of this special committee, which was made and adopted the next day, constitutes Sections 1 to 4, inclusive, of Article I. of the Constitution, as finally adopted. (66)

The Constitution, as thus adopted, provided that the legislative authority should be vested in a "General Assembly," consisting of a "Senate and House of Representatives, both dependent on the people." (Art. I., Sec. 1.)

The number of Representatives was to be apportioned by the Legislature among the several counties, according to the number of "taxable inhabitants" in each, as determined by enumerations to be taken every seven years, the total number never to be less than twenty-two, nor greater than twenty-six,

(62) Journal, p. 11.
(63) Journal, p. 11.
(64) Journal, pp. 11, 12.
(65) Journal, p. 23.
(66) Journal, p. 26.

until the number of taxable inhabitants should be forty thousand, and then never to exceed forty. (Art. I., Sec. 2.)

The Senators were to be chosen by districts, to be formed by the Legislature, in accordance with the number of "taxable inhabitants" at the several periods of enumeration, the number of Senators never to be less than one-third, nor more than one-half, of the number of Representatives. (Art. I., Secs. 3 and 4.)

The Constitution made no difference in the powers of the two houses, except as to impeachments, which were to be brought alone by the House, and tried by the Senate. (Art. IV., Secs. 1 and 2.)

An interesting side light is reflected upon the physical condition of the country at that time, by the provision that the elections for members should be held open for two consecutive days. (Art. I., Sec. 5.)

No person was eligible to a seat in either house of the General Assembly unless he was twenty-one years of age, had resided three years in the State, and one year in the county, and possessed not less than two hundred acres of land in the county. (Art. I., Sec. 7.)

It will be seen that the provisions in reference to the General Assembly were, in the main, taken from the North Carolina Constitution, omitting the representation of towns in the lower house, changing the name of the lower house, and making the qualification of members of both houses as to the ownership of lands the same, the required number of acres, two hundred, being apparently suggested by the requirements for Representatives in the Territorial House of Representatives.

It was also provided, following, with some modification, the North Carolina Constitution, (67) that no Judge, collector or holder of public money, not accounted for, Secretary of State, Attorney General, Register, Clerk of any court of record, or person holding any office under the United States, should have a seat in the General Assembly, and that no person should hold more than one lucrative office at the same time, provided that

(67) 2 Poore's Charters and Constitutions, p. 1413.

neither an appointment in the militia nor the office of a Justice of the Peace should be considered a lucrative office. (Art. I., Secs. 22 and 23.)

This latter provision, also taken from the North Carolina Constitution, together with another proviso that no member of the General Assembly should be eligible to any office or place of trust filled by the General Assembly, except to the offices of Justice of the Peace, or trustee of a literary institution, (Sec. 24), shows in a striking manner the general survival, at that time, of the old English idea, still prevailing in England to-day, that the office of a Justice of the Peace is a place of the highest trust, which the best men of the community ought to assume as a duty imposed by their position, and not merely a "lucrative" office to be sought after on account of its fees.

GOVERNOR.

In no respect is the advance in democratic ideas more strikingly shown than in the provisions in reference to the Governor.

Under the North Carolina Constitution, the Governor was elected by a joint ballot of the two houses of the Legislature, held office for one year only; was required to be thirty years of age, a resident of the State for five years, and the owner of a free hold estate of one thousand pounds; and was ineligible for re-election for more than three years in six successive years. (68)

Under the Northwestern Ordinance, the Governor was required to have a freehold estate of one thousand acres. (69)

The provisions in our Constitution, which were adopted without amendment, as reported in the first draft of the Constitution, (70) vested the supreme executive power in a Goveronr, to be elected by the electors for members of the General Assembly. He was required to be at least twenty-five years of age, to possess a freehold estate of five hundred acres, to have been a citizen and resident of the State for four

(68) 2 Poore's Charters and Constitutions, Art. 15, p. 1412.

(69) 1 Poore's Charters and Constitutions, p. 430.

(70) Journal, p. 15.

years, and was ineligible for re-election for more than six years in any term of eight years. (Art. II., Secs. 1 to 3.)

This radical change in the manner of the election of the Governor, transferring the election from the Assembly directly to the people, is a striking evidence of the advance which had been made in republican ideas since the adoption of the North Carolina Constitution, and the other provisions in reference to the Governor, especially the reduction of the freehold estate which he was required to possess, show not only the modifying influences of the Northwestern Ordinance, but the same general advance in democratic sentiment.

THE JUDICIARY.

The provisions in regard to the judiciary were taken, in the main, from the North Carolina Constitution, which, after announcing in the Declaration of Rights that "the legislative, executive and supreme judicial powers of the Government ought to be forever separate and distinct," in the Constitution proper, after specifying the number and kind of Judges, provided that they, together with the Attorneys General of the State, should be elected by the General Assembly, and hold office "during good behavior." (71) Apparently it did not occur to the framers of the North Carolina Constitution that a judiciary elected by the General Assembly and virtually holding office at its pleasure could not be independent and co-ordinate branch of government in any just or proper sense of the term.

In the original draft of our Constitution, as reported by the committee, it was provided that the judicial power of the State should be vested in a Superior Court of Law, consisting of three Judges, a Court of Pleas and Sessions, and in such other courts as the Legislature might conceive necessary, and that the Judges of the Superior Courts of Law should also have the powers of a Court of Chancery until such time as the Legislature might divest them of their equity jurisdiction and constitute a separate Court of Chancery, (72) but, on motion of Mr. Robertson, each of these provisions was stricken out, and there

(71) 2 Poore's Charters and Constitutions, pp. 1409, 1412.

(72) Journal, p. 16.

was adopted in lieu provisions based directly upon the North Carolina Constitution, whereby the judicial power was vested in such Superior and Inferior Courts of Law and Equity as the Legislature should from time to time direct and establish, and it was provided that the Judges and States Attorneys should be appointed by the General Assembly by joint ballot, and hold their respective offices during good behavior. (73)

The unfortunate results of having the judiciary directly dependent upon the Legislature were abundantly illustrated in our history prior to the changes made by the Constitution of 1834; we can only wonder that the framers of our Constitution, with the example of the United States Constitution before them, should have provided as they did.

TAXATION OF LAND.

The provisions on this subject, which have been more bitterly assailed than any other feature of the Constitution, were not derived from the North Carolina Constitution, but were apparently suggested by the legislation of the Territorial Assembly.

In the year 1794, at the first session of the first Territorial Assembly, held at Knoxville, the question of the proper subjects of taxation had provoked long and vigorous discussion, and, as the journals of the two houses show, there was for many weeks a sending back and forth of the tax bill with sundry amendments upon which the two houses were unable to reach any agreement, the principal dispute being whether land should be taxed at 12½ cts. or 25 cts. per 100 acres, until, finally, on Sept. 30, 1794, an adjustment was reached, and a revenue bill passed providing that all lands should be taxed by the one hundred acres, and in proportion for a greater or less quantity, and that the tax on every one hundred acres should be 25 cents, on each taxable white poll 25 cents, on each taxable negro poll 50 cents, on each stallion $4.00, and on each town lot $1.00. (74)

(73) Journal, p. 23.

(74) Acts of 1st Session of Territorial Assembly, chap. 3, secs. 1 and 2, p. 62. Details of this discussion between the two houses will be found in the Goodspeed Publishing Company's History of Tennessee, p. 208.

Again, at the special session of 1795, substantially the same provision was re-enacted, retaining the same basis of taxation, except that each and every tax was reduced one-half, the proportion and principle, however, remaining the same. (75) This act of 1795 was the second chapter in the acts of this special session, and immediately followed the census act relating to the Constitutional Convention, and bears the same date, July 11, so that the people of the Territory, in electing their delegates to the Constitutional Convention. had full knowledge of the system of land taxation which the Territorial Assembly had thought most expedient, and had invariably adopted.

It is not strange, therefore, that the convention should, on this question, have referred to the experience of the Territorial Assembly, and that in the original draft of the Constitution, as reported by the committee, we should find it provided that all lands held by deed or grant should be taxed "equal and uniform," so that no one hundred acres should be taxed higher than another, except town lots, and that no town lot or freeman should be taxed higher than one hundred acres, and no slave higher than two hundred acres. (76)

On Feb. 1, Mr. McMinn moved to strike out the words "town lots" in this section, which motion "passed in the negative," and he then moved that the entire section be stricken out, but this motion was also lost. (77)

Three days later, on motion of Mr. McNairy, the section was amended so as to include lands held by entry, and to omit the restriction that town lots should not be taxed higher than one hundred acres. (78)

Mr. McClung then again moved to strike out the words "town lots," and again this motion "passed in the negative." It was then moved by Mr. Cocke that the section be amended by providing that no town lot should be taxed higher than two hundred acres of land, which was agreed to, (79) and the sec-

(75) Acts of 2nd Session of 1st Territorial Assembly, chap. 2, secs. 1 and 2. p. 8.

(76) Art. 1, sec. 22, Journal, p. 14.

(77) Journal, p. 21.

(78) Journal, p. 27.

(79) Journal, p. 27.

tion thereupon stood in the final form in which it appears in the Constitution, to-wit: "All lands liable to taxation in this State, held by deed, grant or entry, shall be taxed equally and uniform, in such manner that no one hundred acres shall be taxed higher than another, except town lots, which shall not be taxed higher than two hundred acres of land each; no freeman shall be taxed higher than one hundred acres, and no slave higher than two hundred acres for each poll." (Art. I. Sec. 27.)

Mr. Phelan is so moved by indignation against this, as he terms it, "monstrous" provision, as to assert that the Constitution of 1796 was "unrepublican and unjust in the highest degree;" that it was framed by "land owners" and "land speculators," that "the bulk of the most tillable lands and those nearest Nashville, Jonesboro, and Greeneville, were in the hands of a few men," who, by this system of taxation, were enabled to retain them, and that this constitutional provision was "an entail law in disguise." (80)

If, however, we consider this provision in the light of the facts then existing, we can easily see that it was not born in iniquity or framed in injustice, but that, in fact, it was, at the time, a fairly equitable method of taxation, the injustice and inequality of which only developed later with the differentiation in the value of lands. (81)

There was, in fact, at that time no great difference in the value of lands, as unoccupied lands of great fertility were easily obtainable on every side. No lands had ever been sold by the Government at this time at more than fifty cents an acre, (82) and the sixty-four lots in which Gen. White had laid off Knoxville, four years before, had been sold at $8.00 each, and then, tradition says, regarded as high. To attempt to

(80) Phelan's History of Tennessee, p. 253.

(81) Mr. Roosevelt, in speaking of Governor Blount's correspondence on the subject of his land speculations, says, citing a letter of Thomas Hart, of Lexington, Ky., written March 29, 1795: "It is amusing to read the expressions of horror of his correspondents, when they read that Tennessee had imposed a land tax." (4 Roosevelt's Winning of the West, p. 118.) This would indicate that land taxes were not common in those days, in the new territories, but how this fact was, I do not know.

(82) A summary of the legislation on this point is given in my address on "Blount College and the University of Tennessee," note 42, p. 34.

make any difference between the value of different pieces of lands or lots under such circumstances, when the entire system of government land sales was based on an idea of their equal value, would then have been to make "much ado about nothing;" in fact, one acre was then worth about as much as another, one town lot about as much as the one adjacent.

The real error consisted in putting into the Constitution, in a place of permanency, a provision which would have been, at that time, just and proper as a statute, but which should have been subject to easy modification.

DOMESTIC MANUFACTURES.

Section 27 of Article I. contained the provision, apparently without precedent, that: "No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees."

QUALIFICATION OF VOTERS.

In the provisions relating to the qualifications of voters are seen the farthest step taken by the Constitution in the direction of a purely democratic form of government.

Under the North Carolina Constitution, voters for members of the Senate must have been inhabitants of the county for twelve months, and have possessed a freehold of fifty acres for six months before the election, and voters for members of the House of Commons were required to have been inhabitants of the county for twelve months, and to have paid public taxes. (83)

Under the Northwestern Ordinance, the electors for members of the House of Representatives were required to have a freehold estate of fifty acres. (84)

In the original draft of the Tennessee Constitution, as reported by the committee, it was provided that all freemen, twenty-one years of age and upwards, possessing a freehold in the county wherein they might vote, and being inhabitants of the State, and all freemen who had been inhabitants of any county for six months preceeding the election, should be en-

(83) Sections 7, 8: 2 Poore's Charters and Constitutions, p. 1411.

(84) 1 Poore's Charters and Constitutions, p. 430.

titled to vote for members of the General Assembly for the county of their residence; (85) and this clause was adopted as reported, with only a slight change of phraseology, and apparently without any debate whatever. (Art III., Sec. 1.)

This provision virtually established manhood suffrage as to all freemen, and was the most far reaching provision in the Constitution of 1796 in the direction of a purely republican form of government, based ultimately upon the popular will.

Under this clause many free negroes voted down to the adoption of the Constitution of 1834.

While discussing the qualification of voters, Mr. Henderson and Mr. Outlaw made vain attempts to extend the right of suffrage to all persons who had done duty in the militia or were liable to military duty. (86)

Mr. Anderson also moved that the provision in the original draft of the Constitution that all elections should be by ballot, should be striken out, and that all public elections should be viva voce, provided, however, that if "after a full and fair experiment "this method should be found "less conducive to the satisfaction and independence of the citizens" than the method of voting by ballot, the Legislature might abolish the same by a majority vote in both houses; but this proposed amendment was defeated by a vote of 33 to 19; being voted for, however, by Messrs. McNairy, Robertson, McMinn, Cocke and Anderson, among others. (87)

LEGISLATIVE APPOINTMENT OF JUSTICES.

Under the North Carolina Constitution, Justices of the Peace were commissioned by the Governor on the recommendation of the General Assembly, (88) and this model was virtually followed in our Constitution of 1796, by which the Legislature was given the power of appointing all Justices of the Peace, to hold office during good behavior, together with all other offices not otherwise directed by the Constitution; (Art. I., Sec. 24; Art. V., Sec. 12; Art. VI., Sec. 3); and the County Courts,

(85) Journal, p. 16.

(86) Journal, p. 16.

(87) Journal, p. 22.

(88) 2 Poore's Charters and Constitutions, p. 1413.

composed of the Justices of the Peace, were, in turn, given the appointment of all Sheriffs, Trustees, Registers, Constables and Rangers. (Art. VI., Sec. 1.) (88)

These provisions cause Mr. Phelan to again wax indignant, and to denounce the Constitution as giving "supreme and despotic power" to an Assembly "whose members were nearly all drawn from that class which had the leisure to be candidates, and the means to be successful," and he violently asserts that "the most comprehensive ingenuity, exercised with a view of devising a plan by which as little power as possible shall be placed in the hands of the many, and as much as possible in the hands of the few, could not suggest any improvement in a system whose perfection of organization had left unutilized no expedient consistent with the forms of republican government. It surpassed the Athens of the Kings. It put to shame the rotten borough system of England." (89)

We have no reason to believe, however, that at that time the North Carolina system worked badly, or that the convention could have had any ground to apprehend those abuses which afterwards led to the reform movement headed by William Carroll. Public offices, and especially those of the Justices of the Peace, seem at that day to have been considered solely as public trusts; and it is highly improbable that any of the members of the convention realized the possibility of ring government, which might result from this provision.

They should be judged by their intention, and not by subsequent developments entirely foreign to their expectations.

MINISTERS.

In the original draft of the Constitution, it was declared that ministers of the gospel, being "by their professions" dedicated to God and the cure of souls . . . ought not to be diverted from the great duties of their functions," and, therefore, that no minister of the gospel or priest should be eligible to the holding of any civil or military office or place of trust within the State, (90) but on motion of Mr. Carter, seconded by Mr. Jack-

(89) Phelan's History of Tennessee, p. 253.

(90) Art. viii., § 1; Journal, p. 18.

son, this broad disqualification was striken out, and they were declared ineligible only to seats in either house of the Legislature. Art. VIII., Sec. 1.) (91) This provision, which is still retained in the Constitution of 1870, followed substantially the North Carolina Constitution, with merely rhetorical amplifications. (92)

Oddly enough, it did not follow the example of Mr. Houston's rejected Franklin Constitution, and also exclude doctors, attorneys and other worthy people dedicated to the public service.

RELIGIOUS TEST FOR OFFICE.

Although the North Carolina Constitution had provided that no person who denied the being of God or the truth of the Protestant religion, or the divine authority of either the Old or New Testaments, or who should "hold religious principles incompatible with the freedom and safety of the State," should be capable of holding any civil office or place of trust or profit, (93) the original draft of the Tennessee Constitution, as reported by the committee, contained no provision whatsoever for any religious test for office. However, on motion of Mr. Doherty, a section was adopted thus disqualifying persons who publicly denied either the being of a God, or future rewards and punishments, or the divine authority of either of the Testaments; this last clause being subsequently stricken out, on motion of Mr. Carter, by a vote of 27 to 26. Subsequently Mr. Jackson moved to strike out the entire section, "which was negatived," the word "publicly," however, being stricken out on motion of Mr. Lewis, leaving the section, in its final form, likewise retained in the Constitution of 1870, disqualifying any person who denied the being of God or a future state of rewards and punishments from holding any civil office in the State. (Art. VIII., Sec. 2.) (94)

(91) Journal, p. 23.

(92) Section 31; 2 Poore's Charters and Constitutions, p. 1413.

(93) Section 32; 2 Poore's Charter's and Constitutions, p. 1413.

(94) Journal, pp. 23, 24, 29. Two days later this same motion to strike out this clause in reference to denying the divine authority of the Testaments appears to have been again made by Mr. Rhea and again carried by a vote of 28 to 26. Journal, p. 28.

It is evident that disqualification was not considered by the framers of the Constitution as inconsistent with Section 4 of the Bill of Rights, which declared that: "No religious test shall ever be required as a qualification to any office or public trust under this State;" it being apparently considered that a "religious test" applied only between persons of different religious belief, and not as to persons having no religious belief whatsoever.

In short, while the Tennessee Constitution removed the disability imposed by the North Carolina Constitution, and retained by that State until 1835, (95) upon those who did not believe in the Protestant religion, and did away with all discrimination between different religions, denominations or sects, it still retained the disqualification for civil office of persons denying religious belief altogether.

LIBERTY OF SPEECH AND PRESS.

Section 19 of the Bill of Rights announced broadly the freedom of the press and speech, declaring that: "The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty."

IMPRISONMENT FOR DEBT.

Section 18 of the Bill of Rights declared, following, almost verbatim, Section XXXIX. of the North Carolina Constitution: "That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors or creditor, in such manner as shall be prescribed by law."

Mr. Caldwell states that "this provision appears in the Bill of Rights of 1834, but imprisonment for debt was abolished by statute in 1842." (96)

NAVIGATION OF THE MISSISSIPPI.

Section 29 of the Bill of Rights declares: "That an equal participation in the free navigation of the Mississippi is one

(95) J. W. Caldwell's Constitutional History of Tennessee, p. 97.

(96) Caldwell's Constitutional History of Tennessee, p. 97, note.

of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever."

This clause, which has likewise found a permanent abiding place in our several Constitutions, crystalizes one of the most momentous and interesting chapters in the history of our pioneer settlements, and we can well imagine the fervor with which Robertson and Blount, after their long struggles and diplomatic intrigues with the wily Spanish for the free navagation of the Mississippi, upon which the welfare of the infant Commonwealth had been absolutely dependent, voted for this declaration.

Dr. Ramsey states, upon the authority of the Blount papers, that this section was adopted through the efforts of William Blount. (97)

TERRITORY SOUTH OF FRENCH BROAD AND HOLSTON.

Section 31 of the Bill of Rights declares: "That the people residing south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract."

This short clause brings to mind the long and bloody conflicts between the whites and the Indians for the possession of the fertile valleys lying in that territory, contests in which, although strict law and strict justice was not always upon the side of the settlers, so far as the Indians were concerned, yet certainly, so far as the other citizens of the State were concerned, they had earned, by sweat and blood, with axe and rifle, a prior claim to the fields which they had cleared and the cabins which they had raised and guarded. (98) We can but agree with Dr. Ramsey that "the privilege of pre-emption was richly deserved." (99)

(97) Ramsey's Annals, p. 654.

(98) A sketch of one phase of this long struggle will be found in the address on "Blount College and the University of Tennessee," cited in note 82, supra, p. 28, et seq.

(99) Ramsey's Annals, p. 655.

STATE NAME.

Dr. Ramsey states that it is probable "that the beautiful name given to our State in the convention was suggested by Gen. Jackson," and that the members from the County of Tennessee consented to the loss of this name if it should be transferred to the whole State; but Mr. Phelan is probably correct in saying that while "it may have been that Jackson, in committee, made the formal motion to adopt Tennessee as the name of the new State" yet "it is not true that he suggested a name which otherwise might not have been adopted," and that "the territory south of the river Ohio was already generally known as the Tennessee country." In support of this position Mr. Phelan cites an entry made in Bishop Asbury's diary in May, 1788, and also Winterbotham's America, an old history published in London in 1795, containing a map on which the territory is noted as the "Tennassee government." (100)

I may add that the same name appears on "A map of the Tennassee Government, formerly part of North Carolina, taken chiefly from surveys by Gen. D. Smith and others," which was engraved in 1793 for "Carey's American Edition of Guthrie's Geography Improved," and published by Matthew Carey, a Philadelphia bookseller; while the letter press accompanying this map is also entitled: "A Short Description of the Tennassee Government, or the Territory of the United States South of the River Ohio." (101)

BOUNDARIES OF THE STATE.

Section 32 of the Bill of Rights sets out specifically the

(100) James Phelan's History of Tennessee, p. 187.

(101) This map and letter press are both in the library of Harvard University. It was this map which was reproduced, on one-half the original scale and without crediting the original source, in the various English editions of Gilbert Imlay's "Topographical Description of the Western Territory of North America," as, for example, in the third edition (1797), in which it appears, at page 512, as a map published in London, England, June, 1795, by J. Debrett, Picadilly. It is this same Imlay map, or one slightly varying, from another edition, which is reproduced, on a scale still further reduced, as the frontispiece to Phelan's History of Tennessee.

boundaries of the State; it will be seen that they include only the North Carolina cession, and do not embrace the Southern strip that had been ceded by South Carolina, and which was allowed to drift away from us unnoticed.

This strip of territory was afterwards known as the Territory of the United States South of Tennessee, was subsequently merged into the territory of Mississippi, and now forms the northern portion of Georgia, Alabama and Mississippi. (102)

It is noteworthy that in the original draft of this clause of the Bill of Rights as reported by the committee, the State asserted, in a general phase, sovereignty over its proposed area, (103) but, on motion of Mr. Anderson, this clause was unanimously amended so as to assert sovereignty and right of soil within the proposed boundaries so far as consistent with the Constitution of the United States, and recognizing the Articles of Confederation, the North Carolina Constitution and Cession Act, and the Northwestern Ordinance, (104) thus leaving room for the serious disputes which afterwards arose between Tennessee, North Carolina and the United States as to the ownership of vacant lands. (105)

CAPITAL.

On motion of Mr. Adair, Knoxville was made the seat of government until the year 1804, but this date was afterwards changed, on motion of Mr. Jackson, to 1802. (106)

The total estimate of the expenses of the convention, as reported by Mr. McClung, was $3,007.08, including $22.50 for fire wood, candles, stands, etc., $10.00 for seats, and $2.65 for three and one-half yards of oil cloth. (107)

Before adjourning, the convention unanimously requested that the General Assembly would appropriate that portion of

(102) The Public Domain, p. 162.

(103) Journal, p. 8.

(104) Journal, pp. 8, 9.

(105) A historical sketch of this dispute and its settlement will be found in the address on "Blount College and the University of Tennessee," cited in note 82, supra, appendix B, p. 85.

(106) Journal, p. 24.

(107) Journal, p. 30.

the moneys which had been appropriated for their per diem and mileage, which they had at the outset relinquished, to the payment of the secretary, clerk, printer and door-keeper, for whom no provision had been made in the act providing for the convention. (108)

On February 6, 1796, the engrossed copy of the Constitution was read and passed unanimously, and entrusted to the safe keeping of the President of the convention, who was instructed to forward a copy to the Secretary of State of the United States. (109)

Five days before Mr. Outlaw had moved whether it was the sense of the House that if they should not be admitted by Congress as a member State of the Government, they should continue to exist as an independent State, but on motion of Mr. Cocke, the question was postponed; (110) Section 6 of Article I. of the Constitution provided, however, that the first election for members of the Legislature (and Governor) should be held on the second Thursday of the next March and the first session of the Legislature begin the last Monday of that month.

And thereupon, after directing the President of the convention to issue writs of election for members of the General Assembly under the authority of the new Constitution, the convention, on February 6, 1796, twenty-seven days after its meeting, adjourned sine die. (111)

The Constitution was never submitted to the people.

On the whole, in reviewing the work of the convention, we cannot but feel that the bitter criticisms made by Mr. Phelan, which I have already noted, are not justified, and that, on the whole, a sounder criticism, and in fact an eminently just summary of its work, is contained in the earlier portion of his history, where he states that this convention "made such changes in the North Carolina Constitution as were commensurate

(108) Journal, p. 31.
(109) Journal, p. 32.
(110) Journal. p. 20.
(111) Journal, p. 32.

with the progress of democratic ideas in America, giving less power to the representatives of the people, and more to the people themselves, but leaving the seed of future dissensions in the election of county officers and the taxation of land, which were not healed until the Constitutional Convention of 1834." (112)

Dr. Monette aptly says, in his history of the Mississippi Valley: "The new Constitution in its general features, was more democratic than that of the parent State, and imposed fewer restraints not absolutely necessary for good government. In its provisions it illustrates the principle established by all subsequent Constitutions, that the new States, as well as the older which have remodeled their Constitutions, exhibit a uniform tendency in the public mind to render government more and more the instrument of the poular will." (113)

Thomas Jefferson, writes Dr. Ramsey, declared the Tennessee Constitution of 1796 to be "the least imperfect and most republican" of the systems of government adopted by any of the American States. (114)

That is suited the people of Tennessee is shown by the fact that it remained unchanged until 1834.

On February 9, Gov. Blount forwarded a copy of the Constitution to Mr. Pickering, the Secretary of State of the United States, instructing Maj. Joseph McMinn, the special messenger, to remain at the seat of the Federal Government long enough to ascertain whether the members of Congress from Tennessee would be permitted to take their seats. (115)

In the letter which Gov. Blount sent Mr. Pickering, he stated that the object of the convention in fixing the last Monday in March for the first session of the State Legislature was to obtain "a representation in the Congress of the United States before the termination of the present session." (116)

(112) Phelan's History of Tennessee, p. 119.

(113) History of the Discovery and Settlement of the Valley of the Mississippi, by John W. Monette, M.D., Vol. 2, p. 280.

(114) Ramsey's Annals, p. 657.

(115) Ramsey's Annals, p. 657.

(116) Quoted in full in Ramsey's Annals, p. 670.

On March 28, 1796, the Legislature of the new State met at Knoxville, opened the election returns, declared that "citizen John Sevier" had been elected Governor, elected William Blount and William Cocke as Senators in the Congress of the United States, provided for the election of two members of Congress and the selection of presidential electors, and then proceeded with all ordinary legislative matters; the machinery of State at once, in all its details and departments, going into full operation. (117)

On April 8, President Washington laid before Congress the papers relating to Tennessee's application for admission as a State, but without recommendation, (118) and, thereupon there arose a violent discussion. The House committee, through its chairman, Mr. Dearborn, reported that the citizens of the Southwestern territory, having formed a republican government, were entitled to the rights and privileges of a State, and so declared; but the Senate committee, through Mr. King, reported against the admission of Tennessee, on the ground that Congress must have previously enacted that the whole of the territory ceded by North Carolina, which, it was stated, "is only a part of the Territory of the United States, south of the Ohio;" should be made into one State, before its inhabitants could claim admission into the Union, and recommended the passage by Congress of a preliminary bill of this character. The committee further objected that the enumeration of the inhabitants had not been made by the authority of Congress, that proper precautions had been omitted in taking the same, and that it had extended to all the people in the territory, instead of being confined to the free inhabitants. (119)

This was, however, largely pretext, rather than the true reason, the Constitution of the United States fixing no formal prerequisites to the admission of a new State. The real ground for opposing the admission of Tennessee into the Union was its effect upon the balance of power, indirectly perhaps, as sug-

(117) Ramsey's Annals, p. 657, et seq.

(118) Ramsey's Annals, p. 670.

(119) Ramsey's Annals, p. 671.

gested by Judge Dickinson in his eloquent Centennial address, with reference to the question of slave-holding, but more especially with reference to party interests in the approaching election, it being generally known that the new State would be anti-Federalist, and would cast its vote for Thomas Jefferson. (120)

While this debate was pending in Congress, the Senators-elect from Tennessee repaired to the seat of Government, but modestly refrained from taking their seats. (121)

In the House the right of admission was supported by Nathaniel Macon, James Madison, Albert Gallatin, Wm. B. Giles and Robert Rutherford. (122)

Mr. Madison said in the debate that the inhabitants of that district were "at present in a degraded condition," and "deprived of a right essential to freemen—the right of being represented in Congress," that "an exterior power and authority presided over their laws; an exterior authority appointed their executive, which was not analagous to the other parts of the United States and not justified by anything but an obvious and imperious necessity." (123)

Mr. Rutherford said: "He did not wish to cavil with this brave, generous people. He would have them taken out of leading strings, as they were now able to stand alone. * * * We should not, he said, be too nice about their turning out their toes, or other trifles; they will soon march lustily along. They have complied with every requisite for becoming a State of the Union; they wished to form an additional star in the political hemisphere of the United States." (124)

The bill for admission passed the House by a vote of 43 to 30, but in the Senate there was a tie vote, Tennessee being admitted only by the casting vote of Mr. Livermore, the acting President, for which he received bitter criticism, Chauncey

(120) Phelan's History of Tennessee, p. 188.

(121) Ramsey's Annals, p. 671.

(122) Phelan's History of Tennessee, p. 188. Tennessee Centennial Address by Hon. J. M. Dickinson, Nashville, June 1, 1895, published in the Nashville Sun, June 2, 1896.

(123) Quoted in Judge Dickinson's Centennial Address.

(124) Quoted in Judge Dickinson's Centennial Address.

Goodrich writing of him to Oliver Wolcott (Senior) that: "It must be left for him to account for his conduct; his friends are chagrined. . . . . No doubt this is but one twig of the electioneering cabal for Mr. Jefferson." (125)

On May 31, 1796, the act admitting Tennessee was passed, and the whole of the territory ceded by North Carolina was "declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee," but it was provided that until the next census, Tennessee should be entitled to only one representative in the House. (126)

This act was approved by President Washington, on the same day.

And thus did Tennessee, as our friend Wiltse has said, "volunteer" into the Union.

Many years afterward, Mr. Calhoun, in a speech delivered in the United States Senate on the slavery question, less than one month before his death, said in answer to a question as to what should be done with California in case she should not be admitted into the Union:

"Remand her back to the territorial condition, as was done in the case of Tennessee, in the early stage of the Government. . . . . She . . . formed a Constitution and applied for admission. Congress refused to admit her, on the ground that the census should be taken by the United States, and that Congress had not determined whether the Territory should be formed into one or two States, as it was authorized to do under the cession. She returned quietly to her territorial condition. An act was passed to take a census by the United States, containing the provision that the Territory should form one State. All afterwards was regularly conducted and the Territory admitted in due form as a State." (127)

(125) Phelan's History of Tennessee, p. 188.

(126) 2 Poore's Charters and Constitutions, p. 1677: McMaster's History of the People of the United States, vol. 2, p. 285.

(127) Speech delivered March 4, 1850; quoted in paper on "The Admission of Tennessee into the Union," read before the Tennessee Historical Society on April 2, 1850, and printed in vol. 1 of the American Historical Magazine (Nashville), at p. 230.

In the statements that Tennessee was remanded to her territorial condition and quietly returned thereto and that a new census was taken under the directions of Congress, Mr. Calhoun, as we have seen, was in error, the true status of affairs pending the admission as a State being more correctly as well as picturesquely described in a paper read before the Tennessee Historical Society by Prof. Nathaniel Cross, a few days after Mr. Calhoun's speech, in which he says:

"The first session of the State Legislature began more than three months, and closed more than two months, before Congress invested her with attributes of sovereignty. While the Conscript Fathers on the other side of the mountains were telling her messenger, Mr. McMinn, and her representative, Mr. White, that she must remain a while longer in her pupilage and mend her manners and then come back and knock again for admission more civilly, this young cismontane sister seems to have flouted their parental counsel and without further ceremony to have taken her place in the sisterhood of republics, and gone to work in the exercise of sovereignty, in organizing her courts of justice, appointing her State officers, chartering seminaries of learning and providing for the election of members of Congress, and Presidential Electors. (128)

On July 4, Gov. Sevier called a special session of the Legislature to straighten out the various complications that had arisen. In his message he said:

"I have the pleasure of announcing to you, gentlemen, the admission of the State of Tennessee into the Federal Union, a circumstance pregnant with every prospect of peace, happiness and opulence to our infant State. The period has now arrived when the people of the Western Territory may enjoy all the blessings and liberties of a free and independent republic." (129)

To this message the Assembly, through Mr. Rhea, replied: "We rejoice with you, in the event of this State being formally admitted into the Federal Union, and our minds are filled with the most pleasing sensations, when we reflect on the prosperity

(128) Paper cited in the foregoing note, 1 Amer. Hist. Mag., at p. 233

(129) Ramsey's Annals, p. 673.

and political happiness to which we view it as a certain prelude." (130)

Shortly thereafter, the Legislature passed the necessary remedial acts; William Blount and William Cocke were reelected as Senators and Andrew Jackson was elected as the first member of Congress from the State of Tennessee.

And thus, under such auspicious circumstances, and with gallant John Sevier at the helm of government, did Tennessee enter upon its history as the sixteenth State of the Federal Union.

(130) Ramsey's Annals, p. 673.